



Interlocal: ATF

U.S. Department of Justice

Bureau of Alcohol, Tobacco,
Firearms and Explosives

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MEMORANDUM OF UNDERSTANDING

Between the Bureau of Alcohol, Tobacco, Firearms, and Explosives and
the Port of Seattle, WA Police Department Regarding the
Bomb Arson Tracking System Program

ARTICLE I: PURPOSE AND AUTHORITY

This Memorandum of Understanding (MOU) is entered into by the U.S. Department of Justice, Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF), and the Port of Seattle Police Department, hereinafter collectively referred to as "the parties". This MOU establishes and defines a partnership between the parties that will result in the operation and administration of an online secure Internet based intelligence and information system. This information system will be used by the parties for the collection, analysis, and dissemination of incidents involving arson and the suspected criminal misuse of explosives through ATF's United States Bomb Data Center (USBDC) Bomb Arson Tracking System (BATS) software application.

This MOU and all documents and actions pursuant to it shall be governed by the applicable statutes, regulations, directives and procedures of the United States. This MOU is established pursuant to the authority of the participants to engage in activities related to the investigation and suppression of crimes involving arson and the suspected criminal misuse of explosives. The authority of the Port of Seattle Police Department in these endeavors is derived from the following provision(s) of

RCW Title 70 _____; Statute _____; Section
Chapter 74 & 77. The authority of ATF in these endeavors is derived
from the provisions of the Title XI of the Organized Crime Control Act of 1970, (as
amended), 18 U.S.C. chapter 40, the National Firearms Act, 26 U.S.C. Chapter 53, and
the Gun Control Act of 1968, 18 U.S.C. Chapter 44.

ARTICLE II: SCOPE

The parties acknowledge that crimes are being committed through the offenses of arson and the suspected criminal misuse of explosives in Seattle, Washington.

The parties acknowledge that it is in the public interest to enhance cooperation among City, State, County, and Federal law enforcement agencies with regard to identifying

the perpetrators of crimes involving the offenses of arson and the suspected criminal misuse of explosives.

The parties acknowledge that intelligence and information associated with the crimes of arson and the suspected criminal misuse of explosives are currently being maintained by the Port of Seattle Police Department.

The parties acknowledge that ATF and the BATS Program will assist Federal, State, county, and local law enforcement agencies in combating the crimes of arson and the suspected criminal misuse of explosives through the collection, cataloging, automated processing, comparison, and dissemination of intelligence and information; by making available other ATF criminal and regulatory resources.

The parties acknowledge that there will be no disclosure of information contained within the BATS software application outside of the respective agencies except that disclosure which is deemed necessary by ATF or the Port of Seattle Police Department in conjunction with an official law enforcement investigation or pursuant to a lawful court order.

The parties acknowledge and agree that premature disclosure of certain information resident within the BATS software application other than as described in the preceding paragraph can reasonably be expected to interfere with pending or prospective law enforcement proceedings. This law enforcement sensitive information includes but is not limited to data that may link a person or person to an incident or incidents; criminal methodology of an incident or incidents; personal identifier information; Originating Agency Identifier (ORI) information, or information related to patterns of criminal activity involving arson and the suspected criminal misuse of explosives. It is agreed that the above described law enforcement sensitive information shared or generated pursuant to this agreement shall not be disclosed to any party except as described above without the express consent of both parties to this agreement.

ARTICLE III: TERMINOLOGY

As used herein, the term "**BATS program**" refers to a program operated by ATF to link qualified law enforcement agencies and their approved users through the use of the BATS application software and a secure telecommunications medium to better facilitate the sharing of information and intelligence concerning incidents involving arson and the suspected criminal misuse of explosives.

As used herein, the term "**BATS software application**" refers to a software application capable of the collection and dissemination of arson and the suspected criminal misuse of explosives intelligence and information wholly owned and provided by ATF. The software application is designed to operate through the computer(s) provided by the participating law enforcement agency. These law enforcement agencies will be electronically linked via their local Internet Service Provider (ISP) to a Government

provided local or wide area network communications system operated as part of the BATS Program.

As used herein, the term "**local system administrator**" refers to that person of supervisory rank or functional equivalent responsible for administration of the BATS software application within the Port of Seattle Police Department. This includes but is not limited to the administration of the Port of Seattle Police Department end-users. The Port of Seattle Police Department will within 5 days of the execution of this MOU by both parties, forward to ATF in writing notification of the person or persons designated as the Port of Seattle Police Department local system administrator in a format proscribed by ATF. Included in such notification will be the following information: full legal name; date of birth; sex; race; social security number; rank or title; telephone number; fax number; email address; and ORI. It is further agreed that ATF may use such information provided for verification, system administration, and training purposes associated with access to the BATS software application.

As used herein, the term "**end-user**" refers to those persons nominated by the Port of Seattle Police Department for access to the BATS software application and that have been expressly authorized by ATF for such access. The Port of Seattle Police Department will within 5 days of the execution of this MOU by both parties, forward to ATF in writing notification of the person or persons designated as end-users of the Port of Seattle Police Department in a format proscribed by ATF. Included in such notification will be the following information: full legal name; date of birth; sex; race; social security number; rank or title; telephone number; fax number; email address; and ORI. It is further agreed that ATF may use such information provided for: verification, system administration, and training purposes associated with access to the BATS software application.

ARTICLE IV: INTERAGENCY COMMUNICATION

To provide for consistent and effective communication between the ATF and the Port of Seattle Police Department shall each appoint representatives to discuss and consider the activities under this MOU.

The representatives shall coordinate all requests for assistance under this MOU and shall serve as the points of contact for their respective agencies on all matters under this MOU.

For the Bureau of Alcohol, Tobacco, Firearms, and Explosives:

For the Port of Seattle Police Department:

ARTICLE V: RESPONSIBILITIES OF THE PARTIES

A: IMPLEMENTATION

The Port of Seattle Police Department hereby agrees and acknowledges that it is a duly constituted, empowered, and regulated law enforcement agency and is responsible for the investigation of incidents involving arson and the suspected criminal misuse of explosives.

The Port of Seattle Police Department hereby agrees and acknowledges that as a condition of acceptance into the BATS Program, it has current National Crime Information Center (NCIC) access and use privileges, as well as an ORI. Furthermore the Port of Seattle Police Department hereby agrees and acknowledges that it will maintain such operational NCIC status during the duration of their association with the BATS program.

The Port of Seattle Police Department hereby agrees and acknowledges to notify ATF immediately upon any change of NCIC status.

The Port of Seattle Police Department hereby agrees and acknowledges that it is responsible for all costs associated with computer hardware, computer software (other than the BATS software application), Internet connection(s), or other communications requirements associated with their use of the BATS software application.

ATF will maintain access to the BATS software application furnished to the Port of Seattle Police Department and shall facilitate repairs to the BATS software application in an expeditious manner, subject to availability and funding. However, maintenance and repairs required as the result of improper use of the BATS software application by the Port of Seattle Police Department or enhancements to the BATS software application made by ATF, as well as local computer hardware, computer software, or communications problems will not be assumed by ATF.

B. System Access

The Port of Seattle Police Department will ensure that only those ATF authorized end-users that have been approved by ATF will access the BATS software application.

The Port of Seattle Police Department hereby agrees and acknowledges that their ATF authorized end-users who will access the BATS software application will be legally entitled to use and receive NCIC information.

The Port of Seattle Police Department hereby agrees and acknowledges that it shall identify an individual who will serve as that agency's local system administrator. This individual shall be of a supervisory rank or functional equivalent. This individual shall be responsible for the administration of the BATS program within their agency. This

includes but is not limited to the administration of the Port of Seattle Police Department end-users.

Immediately upon the lack of need for BATS Program data due to: retirement, transfer, reassignment, termination, and/or separation of an authorized end-user, the Port of Seattle Police Department hereby agrees and acknowledges to terminate the involved end-user access to the BATS software application. The ATF BATS program official or his or her designee shall be immediately notified in writing of all end-user access terminations.

The Port of Seattle Police Department hereby agrees and acknowledges that the BATS software application will only be accessed through computers owned or leased for official government purposes and that such computers maintain connectivity to the internet exclusively through a physically wired connection.

The Port of Seattle Police Department hereby agrees and acknowledges that under no condition will it allow the BATS software application to be accessed via any type of wireless communication medium or appliance without the prior written approval of ATF.

C. Operating Parameters

The Port of Seattle Police Department is encouraged to make all reasonable efforts to enter into the BATS software application relevant information related to arson, and the suspected criminal misuse of explosives. Since it has been the experience of ATF that incendiary or arson related fires can be mistakenly characterized as an accidental fire, the Port of Seattle Police Department should contribute all fire and explosion incidents including those initially classified as accidental. The Port of Seattle Police Department understands that any information contributed to the BATS software application may be shared with other law enforcement agencies as described above.

The Port of Seattle Police Department acknowledges that information contributed to the BATS software application must be classified by their end-users in the following two manners:

Restricted (default setting)

In the event information contributed by the Port of Seattle Police Department matches a query developed and executed by an outside agency that is also a participant in the BATS software application, only general information such as: Case Number, Agency, Investigator / Agent, Agency Name, Agency City, Agency State, Agency Telephone Numbers will be released concerning the identified record.

Unrestricted (end-user selected)

In the event information contributed by the Port of Seattle Police Department matches a query developed and executed by an outside agency that is also a

participant in the BATS software application, all information residents within the system concerning an identified record will be released in an un-modifiable form.

D. BATS Program Information Reliability

The Port of Seattle Police Department is responsible for and shall take those steps necessary to ensure the accuracy of information contributed to the BATS software application.

The Port of Seattle Police Department hereby agrees and acknowledges that use of data from the system shall be considered only as an investigative tool. It is not contemplated or recommended that data obtained from the system be used as admissible evidence before any court, adjudicatory tribunal or other government proceeding without further verification of such information from the agency that contributed the information in question.

E. Training

If deemed necessary by ATF and if funding is available, ATF agrees to provide training, as needed, onsite, at ATF facilities, or at other locations. ATF reserves the right to determine training media, delivery methodology, venues, and associated issues and the Port of Seattle Police Department agrees to use such materials.

The Port of Seattle Police Department agrees to assume general responsibility for training necessitated by the replacement of personnel.

Training related to upgrades of the network system, software, or other components may be provided by ATF or by the Port of Seattle Police Department, depending upon the circumstances of the particular upgrade, the level of training required, and the anticipated training cost.

F. Administrative

ATF retains the right to remove access to the BATS software application upon (1) its determination that the BATS software application is being neglected or misused, or is not receiving use to a reasonable degree; (2) receipt of written notification of the termination of the participation of the Port of Seattle Police Department in the BATS Program; (3) termination of the BATS Program by ATF; or (4) the cancellation of this MOU by either party.

ATF and the Plymouth Police Department acknowledge their understanding that the operations described in this MOU are subject to audit by ATF; the U.S. Department of Justice; Office of Inspector General; the General Accounting Office; and other auditors designated by the U.S. Government. Such audits may include reviews of any and all records, documents, reports, accounts, invoices, receipts, and other evidence.

The Port of Seattle Police Department hereby acknowledges its understanding that, for accounting purposes, the principles and standards for determining costs shall be governed by the policies set forth in the Office of Management and Budget (OMB) Circular A-87, revised (available via the OMB, The Superintendent of Documents at the U.S. Government Printing Office, or via the Internet at <http://www.whitehouse.gov/WH/EOP/OMB>).

G. Personnel

ATF agrees to provide, subject to the availability of funding, sufficient personnel to administer ATF's BATS Program responsibilities, to include the provision of user support services obtained by ATF through separate agreement with outside contractors.

This MOU should not be construed to require the hiring of any new personnel, except at the discretion of the Port of Seattle Police Department. If the Port of Seattle Police Department determines that additional personnel resources are required, all costs associated with this hiring will be borne by said agency.

H. Miscellaneous Provisions

The Port of Seattle Police Department agrees to assume complete liability and responsibility for the installation, use, and maintenance of any ancillary communication lines under its control that may be necessary to support maintenance or networking of the BATS software application.

The Port of Seattle Police Department agrees to report to ATF, immediately any incident involving an unauthorized, alteration, damage, or destruction of ATF-owned BATS software application; any unauthorized use or access of the BATS software application; or the unauthorized release of data related to the BATS Program.

The Port of Seattle Police Department will maintain the necessary level of security to assure the integrity of the BATS Program and to prevent unauthorized access to the BATS software application.

The Port of Seattle Police Department agrees to immediately report to ATF any order arising from a legal proceeding that is issued by a court of competent jurisdiction that it might receive, which orders the disclosure of information contained within the BATS software application.

I. Duration

This MOU will become effective upon proper execution and, unless amended as prescribed below, will remain in effect for the duration of the BATS Program.

ATF or the Port of Seattle Police Department may cancel its participation at any time following written notification to the other party.

If this project is terminated by either party, ATF will retain its interest in the electronically stored information contained in the data base, except that ATF agrees to provide a copy of the data contributed by the Port of Seattle Police Department.

The terms and conditions of this MOU will be considered accepted in their entirety upon the signature by the ATF official designated below and the authorized representative of the Port of Seattle Police Department. This MOU may be amended by deletion or modification, or by addition of new provisions, by either party with the express concurrence of the other as indicated by the application of the name and signature of the undersigned, their duly assigned representative, their superiors, or their successor.

EFFECT OF AGREEMENT

This MOU establishes and defines a relationship between ATF and the Port of Seattle Police Department as to the implementation of and participation in the BATS Program, which involves the access to the BATS software application.

Nothing in this MOU will modify any Federal law, regulation, or other Federal rule recognized by ATF.

Nothing in this MOU grants any funding whatsoever. All specific actions agreed to herein shall be subject to funding and administrative or legislative approvals.

The Port of Seattle Police Department hereby agrees to assume full and sole liability for any damage, injury, or harm of any sort caused by participation in the BATS Program and the use of any of any information contained in, processed by, or extracted from any data base subject to this agreement and the protocols and procedures of the BATS Program.

No third party is intended to benefit or otherwise claim any rights whatsoever under this MOU. The rights and obligations set out in the MOU run between the signatories to this MOU, only.

AGREEMENT

ATF and the Port of Seattle Police Department hereby agree to abide by the terms and conditions of this MOU to implement and participate in the BATS program in the manner prescribed herein; to use it in a manner prescribed herein; to allow the necessary and proper administration of the program, to comply with all conditions that ATF may find necessary to institute on behalf of the BATS program; and to require that all participating law enforcement agencies adhere to, any and all future protocols and procedures properly created and instituted as a result of and in accordance with this MOU.

The undersigned being duly authorized by their respective agencies have reviewed, approved, and have affixed their signatures to this MOU.

Robert Champion 7/7/09
Name Date

Robert Champion
Special Agent in Charge
Bureau of Alcohol, Tobacco
Firearms and Explosives

T. Yoshitani 6/1/09
Name Date

Department Chief
Port of Seattle Police Department

Tay Yoshitani
Chief Executive Officer